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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,052	11/03/2003	Charles A. Byrne	MAMMOTH-44436	5529

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EXAMINER	
STAICOVICI, STEFAN	

ART UNIT	PAPER NUMBER
1732	

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/701,052	BYRNE, CHARLES A.	
	Examiner	Art Unit	
	Stefan Staicovici	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 September 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-5 and 7-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3-5 and 7-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed September 12, 2006 has been entered. Claims 1, 3-5 and 7-25 are pending in the instant application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 3-5, 7-13 and 21-25 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claims 1 and 21, the newly added limitations of "at least one rubber sheet" and "at least one fabric sheet" do not appear to have support in the original disclosure. Although the original disclosure appears to have support for one fabric sheet and two rubber sheets, the original disclosure does not appear to have support for a laminate having one rubber sheet and one fabric sheet. Further clarification is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (US Patent No. 6,174,214) in view of Ou (US Patent No. 6,500,082).

Cooper ('214) teaches the basic claimed process for making a flying disc (animal chew toy) including, providing at least one rubber sheet and at least one fabric sheet (floss mesh sheet), cutting said rubber and fabric sheets having a predetermined shape, positioning said rubber sheet over said fabric sheet to form a stack and bonding said rubber and fabric sheets together to form said flying disc (see Figure 2). It is submitted that a flying disc is an animal chew toy.

Regarding claim 1, Cooper ('214) does not teach a compression molding process for bonding the rubber and fabric sheets. Ou ('082) teaches a compression molding process for making a rubber/fabric composite including, providing at least one rubber sheet, cutting said rubber sheet having a predetermined shape, providing at least one fabric sheet (floss mesh sheet), cutting said fabric sheet, superimposing said rubber and fabric sheets to form a stack, placing said stack in a mold and molding said stack under heat and pressure to form said fiber/rubber composite (see col. 3, lines 33-60). Therefore, it would have been obvious for one of ordinary skill in the art to make a flying disc as taught by Cooper ('214) using the process of Ou ('082) because of known advantages that compression molding provides such as ease of operation,

known technology and also because both references teach similar materials and structures, hence suggesting the process of Cooper ('214) to make the structure of Ou ('082).

In regard to claim 5, Ou ('082) teaches a polyester and nylon fabric (see col. 5, lines 23-26). Therefore, it would have been obvious for one of ordinary skill in the art to use a polyester or nylon fabric as taught by Ou ('082) in the flying disc (animal chew toy) of Cooper ('214) because of known advantages that nylon provides such as increased strength and durability, hence providing for an improved product.

Specifically regarding claim 14, Ou ('082) teaches providing a plurality of alternating fabric and rubber sheets (see col. 4, lines 1-14). Therefore, it would have been obvious for one of ordinary skill in the art to provide providing a plurality of alternating fabric and rubber sheets as taught by Ou ('082) in the flying disc (animal chew toy) of Cooper ('214) because Ou ('082) specifically teaches that the stiffness of the resulting fabric/rubber composite can be controlled by the number of rubber and fabric sheets, hence providing for an improved product and increasing process versatility by permitting the making of a wide variety of products with differing stiffness depending on the end use desired.

6. Claims 3-4, 15-16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (US Patent No. 6,174,214) in view of Ou (US Patent No. 6,500,082) and in further view of Willinger (US Patent No. 6,622,659 B2).

Cooper ('214) in view of Ou ('082) teaches the basic claimed process as described above.

Regarding claims 3-4 and 21, Cooper ('214) in view of Ou ('082) do not teach a tire rubber material mixed with carbon black. Willinger ('659) teaches a pet chew toy made from a

tire rubber material mixed with carbon black (see col. 6, lines 36-43). Therefore, it would have been obvious for one of ordinary skill in the art to have used a tire rubber material mixed with carbon black as taught by Willinger ('659) to make the pet chew toy by the process of Cooper ('214) in view of Ou ('082) because, Willinger ('659) teaches that such a material provides for hot and cold resistance and resilience approaching that of natural rubber, hence providing for an improved product.

7. Claims 12 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (US Patent No. 6,174,214) in view of Ou (US Patent No. 6,500,082) and in further view of Edwards (US Patent No. 4,513,014).

Cooper ('214) in view of Ou ('082) teaches the basic claimed process as described above.

Regarding claims 12 and 20, Cooper ('214) in view of Ou ('082) do not teach adding a scent to the rubber material. Edwards ('014) teaches a polyurethane pet chew toy having a liquid scent added prior to molding said pet chew toy (see Abstract, col. 6, lines 28-30 and col. 7, lines 43-58). Therefore, it would have been obvious for one of ordinary skill in the art to have added a scent as taught by Edwards ('014) to make the pet chew toy by the process of Cooper ('214) in view of Ou ('082) because, Edwards ('014) teaches that adding a scent provides for improved taste/aroma that is pleasing to the pet, hence providing for an improved product.

8. Claims 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (US Patent No. 6,174,214) in view of Ou (US Patent No. 6,500,082) and in further view of Willinger (US Patent No. 6,622,659 B2) and Edwards (US Patent No. 4,513,014).

Cooper ('214) in view of Ou ('082) and in further view of Willinger ('659) teaches the basic claimed process as described above.

Regarding claim 25, Cooper ('214) in view of Ou ('082) and in further view of Willinger ('659) do not teach adding a scent to the rubber material. Edwards ('014) teaches a polyurethane pet chew toy having a liquid scent added prior to molding said pet chew toy (see Abstract, col. 6, lines 28-30 and col. 7, lines 43-58). Therefore, it would have been obvious for one of ordinary skill in the art to have added a scent as taught by Edwards ('014) to make the pet chew toy by the process of Cooper ('214) in view of Ou ('082) and in further view of Willinger ('659) because, Edwards ('014) teaches that adding a scent provides for improved taste/aroma that is pleasing to the pet, hence providing for an improved product.

9. Claims 7, 9-11, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (US Patent No. 6,174,214) in view of Ou (US Patent No. 6,500,082) and in further view of Markham *et al.* (US Patent No. 5,904,118).

Cooper ('214) in view of Ou ('082) teach the basic claimed process as described above.

Regarding claims 7, 9-11, 17 and 19, Cooper ('214) in view of Ou ('082) do not teach a pet chew toy having a rope and a buoyant insert made from a closed cell foam inserted into a cavity of said toy. Markham *et al.* ('118) teach a molded pet chew toy having a rope attached and a buoyant insert made from a closed-cell foam inserted into a cavity of said toy (see col. 2, lines 6-16 and Figure 6). Therefore, it would have been obvious for one of ordinary skill in the art to have formed a pet chew toy having a rope and a buoyant insert made from a closed cell foam inserted into a cavity of said toy as taught by Markham *et al.* ('118) using the process of Cooper

('214) in view of Ou ('082) because, Markham *et al.* ('118) teach that such a pet toy provides for an improved product by permitting increased visibility when pets play in the water.

10. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (US Patent No. 6,174,214) in view of Ou (US Patent No. 6,500,082) and in further view of Markham (US Patent No. 5,832,877).

Cooper ('214) in view of Ou ('082) teach the basic claimed process as described above.

Regarding claims 8 and 18, Cooper ('214) in view of Ou ('082) do not teach a pet chew toy having an animal treat retained in a cavity therein. Markham ('877) teaches an animal chew toy having animal treats retained in a cavity therein (see Abstract and Figure 3). Therefore, it would have been obvious for one of ordinary skill in the art to have formed a pet chew toy having an animal treat retained in a cavity therein as taught by Markham ('877) using the process of Cooper ('214) in view of Ou ('082) because, Markham ('877) teach that such a pet toy provides for increased life by allowing the pet to use said toy for an increased period of time, hence providing for an improved product.

11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (US Patent No. 6,174,214) in view of Ou (US Patent No. 6,500,082) and in further view of Richards (US Patent No. 5,020,808).

Cooper ('214) in view of Ou ('082) teach the basic claimed process as described above.

Regarding claim 13, Cooper ('214) in view of Ou ('082) do not teach a tire shaped animal chew toy. Richards ('808) teaches a tire shaped flying disc (animal chew toy) (see Figure 1). It is submitted that a flying disc (animal chew toy) has a diameter of 6-10 inches. Therefore,

it would have been obvious for one of ordinary skill in the art to make a tire shaped flying disc (animal chew toy) as taught by Richards ('808) using the process of Cooper ('214) in view of Ou ('082) because Richards ('808) teaches that an annular (tire) shape provides for improved performance, hence providing for an improved product.

12. Claims 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (US Patent No. 6,174,214) in view of Ou (US Patent No. 6,500,082) and in further view of Willinger (US Patent No. 6,622,659 B2) and Markham *et al.* (US Patent No. 5,904,118).

Cooper ('214) in view of Ou ('082) and in further view of Willinger ('659) teach the basic claimed process as described above.

Regarding claims 22 and 24, Cooper ('214) in view of Ou ('082) and in further view of Willinger ('659) do not teach a pet chew toy having a rope and a buoyant insert made from a closed cell foam inserted into a cavity of said toy. Markham *et al.* ('118) teach a molded pet chew toy having a rope attached and a buoyant insert made from a closed cell foam inserted into a cavity of said toy (see col. 2, lines 6-16 and Figure 6). Therefore, it would have been obvious for one of ordinary skill in the art to have formed a pet chew toy having a rope and a buoyant insert made from a closed cell foam inserted into a cavity of said toy as taught by Markham *et al.* ('118) using the process of Cooper ('214) in view of Ou ('082) and in further view of Willinger ('659) because, Markham *et al.* ('118) teach that such a pet toy provides for an improved product by permitting increased visibility when pets play in the water.

13. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (US Patent No. 6,174,214) in view of Ou (US Patent No. 6,500,082) and in further view of Willinger (US Patent No. 6,622,659 B2) and Markham (US Patent No. 5,832,877).

Cooper ('214) in view of Ou ('082) and in further view of Willinger ('659) teach the basic claimed process as described above.

Regarding claim 23, Cooper ('214) in view of Ou ('082) and in further view of Willinger ('659) do not teach a pet chew toy having an animal treat retained in a cavity therein. Markham ('877) teaches an animal chew toy having animal treats retained in a cavity therein (see Abstract and Figure 3). Therefore, it would have been obvious for one of ordinary skill in the art to have formed a pet chew toy having an animal treat retained in a cavity therein as taught by Markham ('877) using the process of Cooper ('214) in view of Ou ('082) and in further view of Willinger ('659) because, Markham *et al.* ('118) teach that such a pet toy provides for increased life by allowing the pet to use said toy for an increased period of time, hence providing for an improved product.

Response to Arguments

14. Applicant's arguments filed September 12, 2006 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Staicovici, Ph.D. whose telephone number is (571) 272-1208. The examiner can normally be reached on Monday-Friday 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stefan Staicovici, PhD

Stefan Staicovici 12/11/06

Primary Examiner

AU 1732

December 11, 2006